Senator Landry

Province of Alberta
Autonomy Bill

THE SENATE DEBATES

FIRST SESSION—TENTH PARLIAMENT

SPEECH

OF THE

HONOURABLE MR. LANDRY

ON

PROVINCE OF ALBERTA AUTONOMY BILL

OTTAWA, WEDNESDAY, JULY 12, 1905.

Hon. Mr. LANDRY—To-day the government presents for our consideration a most important measure. It comes to us fresh from the crucible of the House of Commons. It is the paramount measure of this session.

We have been told so without any circumlocution, and in presenting to the House of Commons this child of his predilection, proud of his handiwork, self-satisfied in the thought that the new provinces would owe to him their political existence, it was the Prime Minister who used these words. 'We are at the door of the 20th century. It is Canada's century. Such shall history style it. On the very threshold of this century, which shall be ours, I present this Act of legislation that will create two new provinces, and will give them their own autonomy.'

Alas! the Bill which the Prime Minister introduced in the House of Commons, on the 21st February last, has failed to justify the promises made by its author. Mutilated by the hand of the Prime Minister himself, it is now no longer that apparently equitable measure that was to do full justice to the minority; henceforth it becomes a law, spoliatory in character, which strips and robs our fellow-countrymen and co-religionists of their rights.

Before the country and before history I here accuse the government of having deliberately, coldly, calculatingly given way and sacrificed the rights of the minority; given way before the menace of fanaticism, made sacrifice to an interest that had to be counted with.

No; the Bill that comes before us to-day, and that we are asked to accept, is not the one that, on the 21st February last made its triumphal appearance in the House of Commons and for which, with a speech that

made a certan reverberation, the Prime Minister received from the large majority of the people's representatives both enthusiastic support and significant applause.

Deep piercing modifications and cruel mutilations have changed the nature and altered the purport of that Bill.

No longer is it the generous wine that strengthens, rather has it become the subtle poison that permeates the organism, that penetrates its every fibre and that kills it unmercifully.

The Bill presented to the House on the 21st February, by the Prime Minister, contained a vivifying principle.

The Bill that comes to us from the House of Commons, amended as it is by the Prime Minister himself, contains the germs of dissolution.

Might we not well apply here the line of the French poet:

'De tout Laurier, un poison est l'essence,'

and paraphrase the same in the words of an English bard;

'Death lurks beneath the laurel wreath?'

In order to demonstrate the essential difference that exists between the Bill as it was presented for a first reading in the House of Commons and as it is to-day after having been altered by its own author, allow me to draw your attention to the educational clause, and to compare that clause 16 of the original Bill with the clause 17 of the Bill now before us.

That simple comparison will afford you the entire story of the humiliating retreat which the government has beaten and will set forth, in all its extent the disastrous sacrifice that we are asked to condone.

Firstly, we will take clause 17—16 as it appeared in the original Bill. It runs thus:—

16. The provisions of section 93 of the British North America Act, 1867, shall apply to the said province as if, at the date upon which this Act comes into force, the territory comprised therein were already a province, the expression 'the Union' in the said section being taken to mean the said date.

2. Subject to the provisions of the said section 93, and in continuance of the principles heretofore sanctioned under the Northwest Territories Act, it is enacted that the legislature of the said province shall pass all necessary laws in respect of education, and that it shall therein always be provided (a) that a majority of the ratepayers of any district or portion of the said province or of any less portion or subdivision thereof, by whatever name it is known, may establish such schools therein as they think fit, and make the necessary assessments and collection of rates therefor, and (b) that the minority of the ratepayers therein, whether Protestant or Roman Catholic, may establish separate schools therein, and make the necessary assessment and collection of rates therefor, and (c) that in such case the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessment of such rates as they impose upon themselves with respect thereto.

3. In the appropriation of public moneys by the legislature in aid of education, and in the distribution of any moneys paid to the government of the said province arising from the school fund established by the Dominion Lands Act, there shall be no discrimination between the public schools and the separate schools, and such moneys shall be applied to the support of public and separate schools in equitable shares or proportion.

The better to grasp the true significance of this clause 16 of the original Bill, let me remark that the second subsection is merely the word-for-word reproduction of clause 11 of the Northwest Territories Act, 1875, as it is in force to-day and as we find it in chapter 50 of the Revised Statutes of Canada, clause 14.

The federal law that to-day governs the Northwest Territories, is the supreme authority for the moment at least. So long as the Territories have not obtained their autonomy, the authority that defines the rights and obligations of those far-off religions, their real though temporary charter is the Northwest Territories Act, 1875; and concerning the matter of schools this is what that Act says:

The Lieutenant Governor in Council shall pass all necessary ordinances in respect to education, but it shall therein always be provided that a majority of the ratepayers of any district or portion of the Territories, or of any less portion of subdivision thereof, by whatever name the same is known, may establish such schools therein as they think fit, and make the necessary assessment and collection of rates therefor, and also that the minority of the ratepayers therein, whether Protestant or Roman Catholic, may establish separate schools therein, and in such case, the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessments of such rates as they impose upon themselves in respect thereof

The Bill, as it was introduced, and the Act of 1875, which it reproduces, therefore accorded the Territories the right to legislate on matters educational, but with this very significant restriction, that all territorial legislation, in order to conform to the law should always ordain that in each school district:

1. The majority could establish therein whatever schools they think fit—neutral or denominational, English or French.

2. The minority, whether Catholic or Protestant, could establish therein separate schools, denominational or neutral, French or English.

3. The maintenance of the separate schools must be at the expense of the minority alone, which thenceforth, shall not be called upon to contribute to the support of the schools of the majority.

4. That the division of the public moneys voted by the legislature for the support of the schools, as well as the division of the moneys taken from the fund created by the sale of lands reserved for the purpose of education, must be equally and proportionately made between the schools for the majority and those of the minority.

The Bill, as introduced, consequently demanded that :

(a) The majority have schools according to choice.

(b) The minority have separate schools

(c) And both have proportionate shares in the moneys intended for educational purposes.

Before going any further, I desire, in a special manner, to draw the attention of this House to the nature and extent of the rights created by the provisionary Northwest Territories Act, 1875, as to matters of education, and which the Bill, as introduced by the Prime Minister, intended to perpetuate.

The majority in each school district, according to that law of 1875, which still is in force and will so remain until repealed, has a right to demand whatever kind of schools it selects.

Let us suppose a school district the majority in which is Catholic and French—for there are districts of this category—such majority, according to the terms of the present law may select to have confessional and French schools, the schools they think fit, says the law.

In accordance with the provisions of the Northwest Territories Act and within the limitations defined for them, the Lieutenant Governor, in the first place, and the legislative assembly of the Territories afterwards, from time to time issued ordinances that gave to the majorities and minorities precisely the schools to which they were entitled.

As a sample of those constitutional ordinances established in good faith and in conformity with the law allow me to cite for you the ordinances of 1884 and 1885.

Passed on the 6th August, 1884, the ordinances No. 5, of 1884, created a council of public instruction composed of twelve members, of whom six were to be Catholics and six Protestants (clause 1.)

That council was divided into two sections—one Protestant the other Catholic—and the duty of each was :

1. To have under its control and direction the schools of its denomination and to pass any regulations that it might deem useful for the government and discipline of such schools as well as the enforcing of the provisions of the ordinances ;

2. To see to the examination and classification of the teachers, the granting of their licenses, the accepting of outside certificates and the annulling—for sufficient cause—of all licenses;

3. To select the books to be used in the schools ; all books concerning morals and religious instruction—in as far as the Catholic section was concerned—to be submitted for the approval of the competent religious authority ;

4. To approve of the plans submitted for the erection of school-houses;

5. To appoint inspectors who remain in office during the pleasure of the section that appointed them (clause 5.)

In no case could a Catholic be obliged to pay taxes for the support of Protestant schools (clause 131.)

All schools received their proportionate shares of the general fund of revenue in the Territories according to the average attendance of pupils in each school (clause 91).

By an amendment adopted the following year (clause 78 of ordinances No. 31, of 1885) separate schools were left perfectly free to have their own religious instruction

Do you wish to be fully convinced of the scope of the rights accorded to the minority by the federal laws of 1875 and by those first territorial ordinances and what were their immediate and legitimate application ? Listen, then, to what the ex-Minister of the Interior, Hon. Mr. Sifton, declared in the House of Commons on the 24th March last. I quote verbatim :

What followed the passage of this law? There was established in the Northwest Terri-

tories a complete dual system of schools; a system of schools under which the denomination regulated the text-books and the conduct of the schools, and by which everything that appertained to the Roman Catholic schools was directly under the control of a Roman Catholic board of education. We had in the Northwest Territories at that time, under that Act, to all intents and purposes, what are generally known as church schools or clerically controlled schools. That was the system that was built up under this Act of 1875. It went on for some time. It was exactly the same system—I do not know as to the efficiency, for I am not familiar with that—but in principle it was the same system we had in Manitoba up to the year 1890, when it was abolished by the Public School Act of that year.

This testimony of the ex-Minister of the Interior is most conclusive. It is moreover corroborated by that of Mr. Forget, at present Lieutenant Governor of those Territories, and at that time a member of the Catholic Board of Public Instruction. Mr. Forget says:

Until the date of the ordinance of 1892 we had never been denied the right to administer our schools, to regulate the programme of studies, to choose the text-books, to control the religious instruction and to authorize the use of the French language whenever thought convenient. These rights were exercised by the Catholic section of the board of education, and strictly speaking they were sufficient to preserve to our schools their distinctive character of Catholic schools.

The law of 1875, which is still in force, gave consequently to the majority schools of its own choice and to the minority separate schools.

The first ordinances of the Northwest respected those rights of the majority and the minority, by keeping within the limits traced out by the law itself. And the separate schools that were then granted to the people of the Northwest were really separate schools in the full acceptation of the term.

What then, after all, is a separate school and wherefore does it exist? Let the leader of the government speak. He it was who in introducing the Bill on the 21st February last, said:

Before I proceed further, before I pass the threshold of this question, I put at once this inquiry to the House: What are separate schools? What is the meaning of the term? Whence does it come, what was its origin and what was its object? Perhaps somebody will say: What is the use of discussing such a question? The term separate schools ought to be familiar to every one. Sir, if any one were to make such an observation and to interpose such an objection, I would tell him that never was objection taken with less ground. Mankind is ever the same. New problems and new complications will always arise, but new problems and complications, when they do arise, always revolve within the same well beaten circle of man's passions, man's prejudices and man's selfishness. History therefore should be a safe guide, and it is generally by appealing to the past, by investigating the problems with which our fathers had to deal, that we may find the solutions of the complications that face us. If we look back to the history of our own country, if we find what is the origin of the separate schools, perhaps history may be the pillar of cloud by day and the pillar of fire by night to show us the way and give us the light.

After relating in full the history of the separate schools in the olden days of the Upper and Lower Canadian legislature, the Right Hon. Sir Wilfrid Laurier thus continued:

I need not say that the Christian religion is not only a religion founded on moral laws, prescribing moral duties, but it is also a religion of dogmas. Dogmas from the earliest times have occupied just as strong and commanding a position in the faith of all Christians as morals themselves. The reformation created a cleavage between Christians. The old section remained Roman Catholics; the new called themselves Protestants. Between the Roman Catholics and Protestants there is a deep divergence of dogmas. Between the various Protestant denominations there are but small differences in dogmas; the differences are more matters of discipline than of dogma. Therefore, the old legislature of Canada, finding a population of Catholics and different denominations of Protestants all mixed together, finding only one cause of cleavage between them in Christian faith, that is dogmas, allowed religious teaching to be had in all the schools of our country, so that every man could give to his own child the religious tenets which he held sometimes dearer than life. That is the whole meaning of separate schools.

The hon. the Prime Minister was not the only one to define the separate school as it should be.

In a petition presented to the government in 1894, and signed by thirty-one archbishops and bishops of Canada, we read:

Catholics believe in the necessity of religious instruction in the schools. This conviction imposes upon them conscientious obligations, and these obligations give them rights of which they cannot be deprived. They cannot be satisfied by the saying: Others do not believe as you do, therefore you must change your convictions; others are satisfied and even wish that their children should be brought up and educated in such a way, therefore, you Catholics you cannot stand aside, or if you do, do so at your own expense. Such an argument is neither fair nor just.

The undersigned, pastors of souls, are at one with their flocks in insisting on the rights they claim, and they are fully determined to preserve them in their integrity. There is in this a question of justice, of natural equity, of prudence and of social economy, closely connected with the fundamental interests of the country.

The Catholics being under the obligation of educating their children according to their faith and religous principles they profess, have, in our free country, the right of establishing their separate schools, and that right they must be allowed to exercise without being forced to the burden of double school taxes.

For his part, the immortal Leo XIII., that Sovereign Pontiff whose glorious reign hath shed such lustre upon the Catholic Church, when, one day, addressing in a special manner, the church in Canada, traced clearly—in his Encyclical Affari vos—the pathway to be followed, when with authoritative pronouncement, he defined the nature of the education that parents must, in conscience, procure for their children. Here is that doctrine conveyed in a manner that cannot be misunderstood :

Justice and reason then demand that the school shall supply our scholars not only with a scientific system of instruction but also a body of moral teaching which, as we have said, is in harmony with the principles of their religion, without which, far from being of use, education can be nothing but harmful. From this comes the necessity of having Catholic masters and reading books and text-books approved by the bishops, of being free to regulate the school in a manner which shall be in full accord with the profession of the Catholic faith as well as with all the duties which flow from it. Furthermore, it is the inherent right of a father's position to see in what institution his children shall be educated, and what masters shall teach them moral precepts. When, therefore, Catholics demand, as it is their duty to demand and work, that the teaching given by school masters shall be in harmony with the religion of their children, they are contending justly. And nothing could be more unjust than to compel them to choose an alternative, or to allow their children to grow up in ignorance or to throw them amid an environment which constitutes a manifest danger for the supreme interests of their souls. These principles of judgment and action which are based upon truth and justice, and which form the safeguards of public as well as private interests it is unlawful to call in question or in any way to abandon. And so, when the new legislation came to strike Catholic education in the province of Manitoba, it was your duty, venerable brethren, publicly to protest against injustice and the blow that had been dealt; and the way in which you fulfilled this duty has furnished a striking proof of your individual vigilance and of your true episcopal zeal Although upon this point each of you finds sufficient approbation in the witness of his own conscience, know nevertheless that we also join with it our assent and approval For the things that you have sought and still seek to preserve and defend are most holy

This extract from the Encyclical addressed by Leo XIII, directly to the Canadian hierarchy sheds a bright light upon the question that at present occupies our attention and brings out in grand relief the obligation imposed on the Catholic to control the teaching to be given in the school.

When the Manitoba school question was decided by the highest tribunal of the British empire in the upper judicial sphere in England this matter was perfectly well understood. Over there, far better than here did they comprehend what a Catholic school should be, when that court—composed entirely of Protestants—set forth, in the very differences between confessional and neutral schools, the true character of the Catholic separate school.

They understood it to be the intention of the legislatures, in granting separate schools to accord something tangible and appreciable to the minority.

Allow me to cite for you the following remarkable passage in the judgment rendered by the Judicial Committee of the Privy Council, in the case of the Manitoba schools:

Contrast the position of the Roman Catholics prior and subsequent to the Acts from which they appeal. Before these passed into law there existed denominational schools, of which the control and management were in the hands of Roman Catholics, who could select the books to be used and determine the character of the religious teaching. These schools received their proportionate share of the money contributed for school purposes out of the general taxation of the province, and the money raised for these purposes by local assessment was, so far as it fell upon Catholics, applied only towards the support of Catholic schools. What is the position of the Roman Catholic minority under the Act of 1890? Schools of their own denomination conducted according to their views, will receive no aid from the state. They must depend entirely for their support upon the contributions of the Roman Catholic community, while the taxes out of which the state aid is granted to the schools provided for by the statute fall alike on Catholics and Protestants Moreover while the Catholic inhabitants remain liable to local assessment for school purposes, the proceeds of that assessment are no longer destined to any extent for the support of the Catholic schools, but afford the means of maintaining schools which they regard as no more suitable for the education of Catholic children than if they were distinctively Protestant in their character.

And further on the judges of the Privy Council added the following important words, to which, hon. gentlemen, I cannot too strongly claim your attention, conclusive as they are in regard to the position I maintain :

As a matter of fact, the objection of Roman Catholics to schools such as alone receive state aid under the Act of 1890, is conscientious and deeply rooted If this had not been so, if there had been a system of public education accept-

able to Catholics and Protestants alike, the elaborate enactments which have been the subject of so much controversy and consideration would have been unnecessary. It is notorious that there were acute differences of opinion between Catholics and Protestants on the education question prior to 1870. This is recognized and is emphasized in almost every line of those enactments. There is no doubt either what the points of differences were, and it is in the light of these that the 22nd section of the Manitoba Act of 1870, which was in truth a parliamentary compact, must be read.

The quotation may be a little lengthy, but is it not conclusive? It applies, if you will to the Manitoba question; but a separate school is still a separate school, be it situated on the banks of the Red river or on the banks of the Saskatchewan.

And such separate school, be it where it may, must ever remain distinct from the common school by the character of its teaching, the selection of its books, and the distinctive authority that controls and directs it.

Such the opinion of the highest tribunal of the empire; such the opinion of the leader of the government, such the opinion of the church to which every Catholic in the country adheres.

And now, is not the following question timely? Have the Catholics of this country in general and of the Northwest Territories in particular a right to denominational schools?

Let the law and the treaties make reply.

The circumstances under which the present confederation took the place of the former union of Upper and Lower Canada and the special conditions that brought about its inception are all well known. The union of the two Canadas could no longer survive the countless differences that daily tore it and that made a successful administration of the affairs of these two old provinces thenceforth impossible. Necessity demanded the discovery of some other political system whereby each one of the provinces might be allowed to settle for itself, according to its own will and for its own immediate benefit those thousand and one questions of special interest, the solution of which, for over twenty years, had been left to an administration that repeated political crisises and weakened and spasmodic political convulsions were killing.

A confederation, with a federal parliament where great questions of general interest would be discussed, and with local legislatures wherein the more domestic problems of special interest to the different provinces would be regulated, was proposed. And that confederation was accepted.

The provinces that, then, decided to form part of that confederation only consented to become members thereof after protracted deliberations in which some of the most distinguished men of Upper and Lower Canadas, of Nova Scotia and New Brunswick had taken part. It was they who discussed the project of confederation and who settled, by common agreement, the basis on which the new political structure was to be raised. We had a written agreement, sanctioned by England, and to which the imperial power gave a legal existence by means of an enactment—an enactment that we cannot touch, that is the ark of our liberty, wherein our most sacred interests have been deposited, safe from all attack, from the breath of hatred, the turmoil of racial and religious contentions, under the protecting folds of the British flag.

What, then, is this Canadian confederation and what is its grand characteristic?

It is the assemblage of all the heterogeneous elements, of divers races, different creeds varied tastes, aspirations and tendencies, who under one sky, from the fringes of the Atlantic to the mirror expanse of the Pacific, live beneath one flag, in a union of hearts and minds, and growing up with a common desire to raise their common country to the rank of a nation respected abroad and prosperous at home.

The Canadian confederation is a union of diversities, and those very diversities render still more admirable the union that blends them together.

But if that union of divers elements has constituted a confederation we may say, without giving umbrage, that their harmonizing will be the source of the country's greatness and prosperity.

It was in order to secure that harmony that, from the outset, the fathers of confederation established a division of powers between the federal parliament, on the one hand, and the provincial legislatures, on the other.

The British North America Act consecrates that division and enumerates the powers that belong to the federal parliament and those conferred on the legislatures.

There is also another principle which equally consecrates—and with like force—our constituting enactment.

It is the preservation to the minority—in each of the provinces—in matters educational—of all the privileges and of all the rights which that minority might have acquired before the entry of such province into the confederation. And it is in this way that the rights to denominational schools were for ever secured in the provinces where they were then found in existence.

The British North America Act says so:

93 In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions.

(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union.

The question as to whether Catholics in general have a right to denominational schools is answered by our charter, the imperial enactment, in these words: 'Yes, at all events in the provinces where such schools exist according to law, at the time of their entry into the confederation.'

And this accords with the consecrated principle of the preservation of a right already acquired.

If we apply this general principle to the Territories that come into the confederation, without having had any prior provincial existence and without having had consequently any opportunity as provinces to legislate on educational matters, we are led infallibly to the same conclusion

This is easy of demonstration.

The Territories are under the immediate control and government of the federal power.

The only laws that govern them are federal laws. The ordinances after all are merely regulations authorized by the federal law, repealable at will, annullable at any time.

Not being provinces, no provincial laws could they have, nor could the Territories acquire such rights as provinces create for themselves.

Yet those Territories are none the less subject to laws, and if those federal laws, the only laws possible in the case, give to a particular class of people, in these Territories, denominational schools, the same principle of the preservation of acquired rights which applies to provinces on their entry into the confederation, applies equally and with the same force to those same Territories when they, in turn, enter the confederation.

Now, as a matter of fact, the Northwest Territories are subject to that legislation of 1875, passed by this parliament and which, fully thirty years ago, accorded them separate and denominational schools.

That law has never been repealed.

It still exists, and in as far as concerns separate and denominational schools, it exists, just as it was passed in 1875, without ever having undergone any modification.

Therefore the Territories come into confederation with rights and privileges recognized and given by law.

The Catholics of the Northwest, therefore, as the Catholics in all provinces, wherein separate and denominational schools exist, have an inalienable right to their denominational and separate schools.

In no other sense can the British North America Act be interpreted.

It was so interpreted in 1875 by the late George Brown when he said (I quote from Sir Wilfrid Laurier's speech):

I repeat again that Mr. Brown, on the floor of the Senate, did not want this clause providing for separate schools to be introduced in the Act. He stated that it would be a mistake to introduce separate schools, he said that he was opposed to separate schools, but he said that if at any time separate schools were introduced they came under the Act of Union, and they were there for all time.

In 1901 the same conclusion was arrived at by Colonel O'Brien and the late Dalton McCarthy during the discussion that then took place in the House of Commons on a proposition to amend the Northwest Territories Act.

Speaking of the separate schools, Colonel O'Brien said:

The subject, of course, is one that is comparatively new, for all our dealings with the Northwest Territories have been so far tentative, and experimental rather than absolute. We are now, however, going a step further. We are now giving to this assembly powers which it has not hitherto possessed; and there is one thing which may be taken for granted, that with the acquisition of the new powers given under this Act, the people of these territories will inquire why they should be restricted in this great and important particular. It is because I think such is the case, and be-

cause I do not wish on a future occasion, when this subject comes again before the House for further legislation, that those who think as I do on this system of education should be met with the objection that so many years ago this system was established by law and that, therefore, a vested right is created which the legislature should not now interfere with. Why, Sir, it would be almost fair to argue that this would come within the provisions of the British North America Act. If not in reality it would by analogy, because the British North America Act secured to the provinces which came into confederation whatever rights were enjoyed by the supporters of separate schools at the time of confederation, and if we create new provinces out of these territories it may be fairly argued that the analogy of the British North America Act will apply, and that in creating new provinces and bringing them into confederation there will be something like the same rights guaranteed to the provinces having separate schools before coming in under the British North America Act.

And last but not least, the present Minister of Justice after a most careful study of the whole subject and with the full knowledge of the grave responsibility assumed by him in giving a legal opinion on that question of the rights of the minority, did affirm to the House of Commons, in the most solemn way, on the 10th of May last, that in the absence of any special enactment on matters educational, clause 93 of the British North America Act would certainly apply automatically, and such application would bring in and protect all the rights and privileges set forth by the Northwest Territories Act.

Here are the words spoken by the Minister of Justice :

Mr FITZPATRICK. It will be my duty, when the amendment is moved, to explain the differences which exist between the amended clause and clause 16 in the original Bill In the meantime I might point out my views of the constitutional question because in my judgment this is to a very large extent a constitutional question and has to be considered from that standpoint Section 2 would bring into effect section 93 of the British North America Act, if section 16 were not in this Bill at all If section 16 were omitted, section 93 of the British North America Act would be applicable; but then we would meet this difficulty, a doubt arises as to whether section 93 can be considered as applicable to the Northwest Territories in view of the fact that in the first provision of that section the words used are 'the rights and privileges in force in the province at the union.' Technically while these Territories may have practically all the legislative powers of a province, they are not a province; now within the meaning of section 93 of the British North America Act, and it was to avoid the difficulty that I substituted in section 16 in the first paragraph the word 'territory' for 'province.' Then the other difficulty that would have arisen is what is meant by the words 'at the date of the union.' In my opinion there can be no doubt that the date of the union is the date at which the Territories came into the Dominion as a province and not the date at which those Indian territories were brought into the Dominion as territories It was to make that point clear also that I amended the first clause in the way I did.

Mr. R. L. BORDEN Does my hon friend regard section 16 as exercising upon section 2 the restrictive effect which hon gentlemen on the other side have contended it does ?

Mr. FITZPATRICK. My argument now is that section 16, read in the light of these words in section 2, 'except in so far as varied by this Act'—is to be substituted for section 93; and section 93 is not applicable to the new province at all, because that section is varied by section 16.

Mr. R L BORDEN. I understand that perfectly whether we agree with it or not But assuming that there was no doubt about the effect of section 2, assuming that there was not that doubt which the hon gentleman now explained, would it bring into effect the Act of 1875 ?

Mr. FITZPATRICK. It would bring into effect section 93 of the British North America Act which would include the Act of 1875.

Mr R. L. BORDEN. That is just it, I was taking the short line Section 93 would have the effect of perpetuating the Act of 1875, in so far as it embodies what we call the ratepotive principle. Does the hon minister regard section 16 (which is substituted for section 2), in its amended form or in its original form as having the same effect ?

Mr. FITZPATRICK. In my judgment section 93 as amended would bring in all the rights and privileges which exists in favour of denominational schools in the Territories at the present time or at the 1st of July coming Those rights and privileges would include all those rights which are covered by section 11 of the Act of 1875 and any subsequent legislation up to the present time, and, in my opinion—and I must say I have given this matter most careful consideration, and it is my settled opinion —it would cover all the privileges conferred by the Act of 1875, notwithstanding the provision of any ordinances that may have been passed by virtue of that Act

Mr R L. BORDEN. Exactly my own view

Before the present Minister of Justice, whose legal authority nobody can dispute, had given his opinion which I have just cited, another Minister of Justice, who has left the widest reputation of a first class jurist, the late Sir John Thompson, reporting one day on the character of the school ordinances of the Northwest legislature, said :

The ordinance respecting schools does not contain the provisions that the statute requires it to contain, but merely contains the provision that the minority may establish a separate school in an organized public school district, thus placing the minority at the mercy of the majority, and only giving the minority the right to establish a separate school, if the majority think proper to organize a public

school. It is necessary to point out that the provisions of the Northwest Territories Act before cited, cannot be abridged by the ordinance and must be considered as still in force, notwithstanding the restrictive terms of the ordinance. In so far as it is attempted by the ordinance to declare the meaning of the North west Territories Act, the ordinance fails of that purpose, and is objectionable as being an interpretation by an inferior legislative body of the Acts of its superior

But this is not all

There are sacred obligations that no country can ignore without compromising its honour

We are to-day, face to face with one of those solemn engagements which, with a full comprehension of its circumstances, our country has contracted and which it cannot, without injury to its reputation, ignore

After having purchased from the powerful Hudson's Bay Company the rights and privileges that the latter held in those vast regions known as Rupert's Land, and the Northwest Territories, when Canada wished to take possession of its new domain and exercise its authority over the same, an insurrection broke out and the people flew to arms

But in this, let the one who was most intimately connected with those stirring events, and who was commissioned by the Crown to re-establish peace in that new land, speak.

An official document laid before the House of Commons on the 17th June, 1991 (No. 51 of the session of 1991), gives us the authentic story of the negotiations between the government of Canada and the delegates chosen by the people of the Northwest In a letter written by Monseigneur Taché, and addressed to the Governor General, we read

Previous to the transfer of the Northwest Territories to the Dominion of Canada there prevailed a great uneasiness amongst the inhabitants of the said Territories, with regard to the consequences of the transfer The Catholic population especially, mostly of French origin thought they had reason to foresee grievances on account of their language and their religion, if there were no special guarantee given as to what they considered their rights and privileges Their apprehensions gave rise to such an excitement that they resorted to arms, not through a want of loyalty to the Crown but only through mere distrust towards Canadian authorities which were considered as trespassing in the country previous to their acquisition of the same. Misguided men joined together to prevent the entry of the would-be Lieutenant Governor

The news of such an outburst was received with surprise and regret both in England and Canada

All this took place in the autumn of 1870

I was in Rome at the time and at the request of the Canadian authorities I left the Œcumenical Council to come and help in the pacification of the country On my way home, I spent a few days in Ottawa. I had the honour of several interviews with Sir John Young, then Governor General and with his ministers. I was repeatedly assured that the rights of the people of Red river would be fully guarded under the new regime; that both imperial and federal authorities would never permit the newcomers in the country to encroach on the liberties of the old settlers, that on the banks of the Red river, as well as on the banks of the St Lawrence, the people would be at liberty to use their mother tongue to practice their religion and have their children brought up according to their views

On the day of my departure from Ottawa His Excellency handed me a letter a copy of which I attach to this, appendix A, and in which are repeated some of the assurances given verbally 'The people,' says the letter, 'may rely that respect and attention will be extended to the different religious persuasions

The Governor General, after mentioning the desire of Lord Granville 'to avail of my assistance from the outset gave me a telegram he had received from the Most Honourable the Secretary of the Colonies, which I attach to this as Append x B, and in which His Lordship [illegible] he desire that the Governor General [illegible] he wants and conciliate the good-will of all the settlers of the Red river'

I was, moreover, furnished with a copy of the proclamation issued by His Excellency on the 8th of December, 1869, which I attach hereto as Appendix C In this proclamation we read Her Majesty commands me to make known that she will be always ready through me to hear and redress any real and well-founded grievances, and any complaints that may be made or desires that may be expressed to me as Governor General

By Her Majesty's authority I do therefore assure you that on your union with Canada, all your civil and religious rights and privileges will be respected

A delegation from Red river had been proposed as a good means of giving and receiving explanations conducive to the pacification of the country The desirability of this step was urged upon me as of the greatest importance, and the premier of Canada, in a letter I attach to this as Append.x D, wrote to me 'In case a delegation is appointed to proceed to Ottawa, you can assure them that they will be kindly received and their suggestions fully considered Their expenses coming here and returning and while staying in Ottawa will be defrayed by us

I left after having received the above mentioned instructions, and reached St. Boniface on March 9, 1870

I communicated to the dissatisfied the assurances I had received, showing them the documents above cited This largely contributed to dispel fears and to restore confidence. The delegation which had been delayed was definitely decided upon. The delegates appointed several weeks before, received their commis-

sion afresh. They proceeded to Ottawa, opened negotiations with the federal authorities, and with such result that on May 2, 1870, Sir John Young telegraphed to Lord Granville: Negotiations with delegates closed satisfactorily.

The negotiations provided that the denominational or separate schools would be guaranteed to the minority of the new province of Manitoba. The French language received such recognition that it was decided it would be used officially both in Parliament and in the courts of Manitoba.

The Manitoba Act was then passed by the House of Commons and Senate of Canada, and sanctioned by the Governor General.

I may add that since these pages were written, the highest judicial tribunal of England, in a celebrated judgment, recognized in that legislation the character of a solemn pledge when it said:

> There is no doubt either what the points of difference were, and it is in the light of these that the 22nd section of the Manitoba Act of 1870, which was in truth a parliamentary compact, must be read.

The interpretation given by the Privy Council to the Manitoba Act, does not merely apply to that province alone, for the good reason that the agreement (pacte) in question was not entered into with the inhabitants of Manitoba only. Manitoba did not exist when that agreement was made—but with all the inhabitants of Rupert's Land and of the Northwest Territories. This is made clear and indisputable by the letters from the Governor General and the Prime Minister of Canada to Monseigneur Taché, of the 16th February, 1870, by the proclamation of the Governor General under date the 6th December previous, by the Bill of Rights and by the preamble of the Manitoba Act of 1870 (33 Vic., chap. 3.)

I feel that I have proven that in the Northwest, the minority has an undeniable right to separate schools, and that our co-religionists have a right to lay claim to the privilege of enjoying their denominational schools.

Does the measure now submitted to us recognize that right and respect those privileges?

You have but to read the new educational clause, that which the government has substituted for the original one, and which imparts a totally different aspect to the present measure. It reads thus:

> 17 Section 93 of the British North America Act, 1867, shall apply to the said provinces, with the substitution for paragraph (1) of the said section 93, of the following paragraph —
>
> '(1.) Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the ordinances of the Northwest Territories passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.'
>
> (2.) In the appropriation by the legislature or distribution by the government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29 or any Act passed in amendment thereof or in substitution therefor there shall be no discrimination against schools of any class described in the said chapter 29.
>
> (3.) Where the expression 'by law' is employed in subsection 3 of the said section 93, it shall be held to mean the law as set out in the said chapters 29 and 30, and where the expression 'at the union' is employed in the said subsection 3, it shall be held to mean the date at which this Act comes into force.

The first clause 16, which is replaced by the present clause 17, reproduced the federal enactment of 1875, and took it as the basis of those rights and privileges that should be perpetuated for the benefit of the Catholics of the Northwest. The present clause breaks completely away from the federal law to cling to the school ordinances of 1901.

It is those ordinances that must determine the nature and the scope of the rights at present enjoyed by the Catholics in the Northwest Territories and the Bill which we are asked to pass preserves nothing more than what is accorded by the ordinances.

The question, therefore, to be solved, is this: What are the rights and privileges that the ordinances of 1901 recognize as belonging to our fellow-countrymen and co-religionists in the Northwest?

Here is all they give the Catholics:

1st. Two out of the five members who constitute the Council of Public Instruction, which is a purely consulting board that can do absolutely nothing of itself and the sole functions of which are to advise the commissioner on certain subjects—an advice which the minister is in no way bound to follow (chap. 29, clause 5).

2nd. The right of the minority to apply to the system of so-called separate schools—which are not separate schools in reality—the school taxes imposed upon them and the exemption of the minority from taxation for the benefit of the schools of the majority (chap. 29, clause 41).

3rd. The right accorded the school commissioners to allow if they think well, a primary instruction in French—after three o'clock in the afternoon, according to the regulations chap. 29, clause 136)

4th. The right to impart religious instruction for half an hour, after class, from half-past three until four o'clock in the afternoon.

This is all that the ordinances of 1901 give. It is the crumbs that the stingy hand of an intolerant majority casts grudgingly to those whom it seeks to starve out, it is the miserable and humiliating pittance that the narrow-minded conquerors fling to an abandoned population. Once again force crushes right, and if we are the disgusted witnesses of the injustices that it engenders and the persecutions to which it gives birth, our sorrow and our shame are in no way lessened by the sad spectacle afforded us, in the very midst of people whom those incapable defenders of a cause they abuse, should protect and in the midst of a parliament that should be the born guardian of the rights of minorities, by those scared and distracted men for whom the tranquil enjoyment of power constitutes their supreme rule of action.

On the one side they declare themselves satisfied with the present condition of affairs, and instead of raising indignant protests and proudly asserting their rights, they cringe in a criminal inactivity and, under I know not what false pretext, they refuse to defend the rights of their own people—national and religious rights—and to the astonishment of the true friends of liberty they ground arms and lay down their baggage in the enemy's camp. All of which is out black treason.

On the other hand, those whose mission it is and whose duty likewise to respect in parliament the solemn treaties entered into between the Dominion and the people of the Northwest, and to give the minority the full measure of its rights, having before their eyes the example of so cowardly a desertion, make answer to-day by pointing to those eleventh hour deserters who proclaim their inexplicable satisfaction and who now fight in the front ranks of their powerful phalanx.

And yet we all know that 'one swallow does not make a summer,' and that that lost and isolated voice which cries out to us in the desert, is not for us, French Canadians and Catholics, a voice calculated to rally the combatants of a noble cause. Satisfaction with humiliation is worth nothing to us, and we to-day raise our voices in protest both against the brigand law that is sought to be imposed on our brethren of that region and against those who are willing to accept a stone in place of the bread that is due them.

And truly it is only a stone that is offered our fellow-countrymen by the Bill that is now submitted for the approval of this House.

It is based on the ordinances of 1901.

We know what those ordinances give the minority, and under that heading the present Bill is one of spoliation, even as were the ordinances which it confirms.

The spoliation is still greater. The present Bill so amends the British North American Act as to restrict the rights, powers and privileges which that Act accords to a certain class of persons in all the other provinces of the Dominion.

That which is granted to that minority of all the provinces in general, is refused in this case, to the minority of the two provinces which we are now organizing.

The demonstration of this will be brief but positive.

Clause 93 of the British North America Act reads thus:

93. In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions:—

(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union.

In virtue of this clause, a province which comes into the confederation with an established system of denominational schools, recognized by its own laws, has the undeniable right to preserve that system and any enactment that might subsequently prejudice in any way whatsoever that right must be unconstitutional and worthless.

So much for the general law affecting the provinces.

Why then did the leader of the government deem it well in this instance to depart therefrom by imposing a totally different law upon the new provinces? That

exceptional enactment is by the new clause 17 proposed by Sir Wilfrid Laurier formally consecrated. Here is the first paragraph of that new clause

17 Section 93 of the British North America Act, 1867 shall apply to the said province, with the substitution for paragraph (1) of the said section 93, of the following paragraph —

(1) Nothing in any such law shall prejudicially affect any right of privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the ordinances of the Northwest Territories passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances

This amendment upsets the entire spirit of clause 93 of the British North America Act, when it substitutes in the first paragraph of the imperial enactment the words separate schools for the words denominational schools restricting it thereby to those separate schools only that conform to the ordinances of 1901, a protection which heretofore guaranteed the existence of the denominational schools that the law recognized

In order to understand the nature of this exceptional legislation which is sought to be imposed on the new provinces and to seize the full scope of the crying injustice which is to be perpetrated upon the Catholic and the French minority of the Northwest we need but ask ourselves the meaning of a denominational school and that of a neutral school and then to make evident the vast difference that exists between the two.

In regard to the instruction given therein the denominational school exists when that instruction is impregnated with the religious spirit of the denomination to which it belongs. Thus we have Catholic, Anglican, Methodist, Presbyterian, &c., schools, according as the teaching therein is impregnated with a Catholic, Anglican, Methodist or Presbyterian spirit. If the instruction given in a school is entirely divorced from all religious influence, if that instruction can be indiscriminately given to all the pupils frequenting the school, be their differences of religious belief what it may, if that instruction, from its very nature, cannot grate upon any religious belief, that school is a neutral one, in contradiction to the denominational school.

And again, a very different thing is the separate school.

Its name tells what it is: A school detached from an already existing school, a school separated from the ordinary school of the district in which it is established, it is the school of a minority that will not or cannot accept the instruction given to the majority

The separate school is that which faces the public school

It need not necessarily be a denominational school

For example in a school district where the Catholic majority has a Catholic public school, consequently a denominational one, the school of the Protestant minority becomes a separate school which might perfectly well be, and very likely would be, a neutral school.

This is a fact that none will dispute and which the school system of the province of Quebec, moreover most clearly illustrates. For its part the law confirms the doctrine that I propound when, in clause 93 of the British North America Act it mentions the powers, rights and privileges of the dissentient schools of the Queen's Protestant subjects in the province of Quebec (paragraph 2), and the rights and privileges of the Protestant minority in every province in which a separate school system obtains (paragraph 3)

In fine, the Northwest ordinances of 1901, upon which rests the present proposed enactment, ordain—(clause 14)—that the minority, Protestant or Catholic of the ratepayers of every district (clause 45, may establish therein a separate school that will be subject to all the obligations imposed on public schools.

It is, therefore more than abundantly proven that a separate is not necessarily a denominational school, and that, in the Northwest Territories, such a school cannot even be a denominational school.

The iniquity of the amendment, moved by Sir Wilfrid Laurier, to his own legislative drafting, is now apparent in all its ugliness to eyes that will not lose sight of the distinction which has just been established between the denominational and the separate school

The constitution guarantees the preservation of denominational schools in all provinces wherein such schools have had al-

ready a legal existence at the time of the entry of any of them into the confederation.

In 1875, by a special enactment, the federal parliament granted denominational schools to the Northwest Territories.

In fact the law of 1875 gave to the majority in each school district the right to have whatever school it thought fit, consequently the right to denominational schools. Consequently this right given by law was safeguarded by paragraph 1 of clause 93 of the British North America Act, and the Catholic majority, wherever there was one in the school districts of the Northwest Territories, retained, guaranteed by the constitution itself, the privilege already obtained

What does Sir Wilfrid Laurier do?

With a stroke of his pen he blots out from the British North America Act the words denominational schools and substitutes therefor the words separate schools

By that one stroke the Catholics of the Northwest Territories, in the districts in which they are the majority, lose their right to denominational schools.

The minority alone, and only in the districts in which such minority exists, can henceforth have separate schools, but separate schools such as they are constituted by the ordinances of 1901, that is to say separate schools from which religious instruction is banished.

This is what the Laurier-Sifton amendment gives to the Catholics of the Northwest

That which our constitution guarantees in general terms to all the other provinces of the Dominion, Sir Wilfrid Laurier after a month of study and reflection, snatches violently from our charter and deliberately refuses it to the Catholics of the new provinces.

And Catholics are found who proclaim themselves satisfied with this guilty deed of spoliation and who, in dust and humiliation, ask that we join freely in the sacrifice of their rights and in the ignominious perpetration of their dark treason

We have no part in it. We wish to defend our rights, despite the unqualified blindness of those who have eyes and who will not see. Despoiled of their right to denominational schools by the culpable substitution of the words separate schools for the words denominational schools in the British North America Act, the Catholics are reduced to only what the ordinances of 1901 can give them. So ordains the Laurier-Sifton amendment. And what do these despoiling ordinances give them? We will learn it from the very lips of those who claim to have made a serious study of the question.

Mr Sifton referring to the enactment of 1875, the Northwest Territories Act, has already told us—and I cited his testimony in the first part of my speech—that the federal law had given a double system of education to the people of the Northwest and that the control of the Catholics over their schools had been freely exercised down to 1892.

Here is the declaration of the late Minister of the Interior

> In the year 1892, what was known as the dual system was entirely swept away and that system which we have in the Northwest Territories, substantially as we have it at present, was established. I am not going to trouble the House with any lengthy quotations, but I desire to point out what was conceived by the people of the Northwest Territories connected with these schools to be the effect of the legislation of 1892
>
> We have one normal school with uniform normal training for all teachers, and when I say all teachers, I mean teachers of all schools separate and public, uniform curricula and grade uniform text books for all schools uniform qualification of teachers for all schools, complete and absolute control of all schools as to their government and conduct, by [illegible] general school board [illegible] set up by the legislature under the ordinance [illegible] complete secularization of all schools between 9 o'clock in the morning and 3.30 in the afternoon except that any school, if the trustees so desire may be opened with the Lord's prayer; distribution of the legislative grant to all schools according to educational efficiency on principles set out in chapter 29
>
> Then where there is a public school, the minority Protestant or Roman Catholic may organize a separate school but every separate school is subject absolutely to all the foregoing provisions and is in every sense of the term a public school
>
> If this legislation is carried into effect it preserves just the two privileges which I spoke of the privilege of the Roman Catholic or Protestant minority to have a separate schoolhouse, and the privilege of having religious instruction between half-past three and four o'clock in the afternoon. But there cannot be under this system any control of the school by any clerical or sectarian body There cannot be any sectarian teaching between nine o'clock in the morning and half-past three in the afternoon So that so far as we have objections to separate schools based upon the idea of church control clerical control or sectarianism in any form, this system of schools is certainly not open to that objection

Another minister of the Crown, Mr. Paint-

ton, expresses himself in the following way on this subject of separate schools

It must be borne in mind that those separate schools are formed precisely as every school district is formed Although the name separate school appears to convey to the minds of some people the impression that they are separate in the sense in which they are established in some other province, there is no distinction between these schools and the other public schools as regards organization, or the qualification of teachers, or the text-books or the right of state inspection, or in the reports they have to make In every respect they are under the commissioner of education in absolutely the same manner as is every other public school in the Territories

Precisely the same course of study that is followed in the public schools is to be followed in these schools but when the hour of 3 30 p.m. arrives, if the trustees of the separate school desire, religious instruction may then be given to the youth therein Is that a concession made particularly to our Roman Catholic brethren ? Why, the same clauses apply to [illegible] other No special right no special permission is given the separate schools which is withheld from the other

Mr Crawford, the member for Portage la Prairie, belongs to the Orange order He is at the same time one of Sir Wilfrid Laurier's most devoted followers

Let us open our ears to what he uttered on the 14th of April last :

Hon. members opposite have taken the position that there is no difference between the original school clauses of the Bill and the clauses as they now stand amended I think there is a good deal of difference. The original clauses of the Bill were very indefinite Under those clauses it was open to the people to have such school laws as they had in Manitoba, or they could have the old school laws that were in existence in the Territories previous to 1890. There was just that doubt about it but the amended clauses make it more definite, the law can now be clearly understood and there can be no question as to what law the people in the Northwest Territories will have in the future

Now these school laws as they are in the Northwest Territories and as they are intended to be continued by this legislation are not at all the kind of school laws that the people particularly of Ontario have in their minds

The idea which has taken hold of the minds of the people of Ontario is an exaggerated one They have the idea that it is the intention of the government to establish in the Northwest Territories schools of the character that we had in the province of Manitoba before 1890 that is to say schools entirely under the control of the church

The idea that the people of Ontario have today is that it is the government's intention to establish Roman Catholic church-controlled schools entirely free and independent of the [illegible] [illegible] which have been reported to them [illegible]

chief. It is hardly necessary for me to repeat [illegible] goes through [illegible] separate schools In fact, the name 'separate' [illegible] tion with them We propose to continue in the [illegible] got—Catholic public schools and Protestant [illegible] I think as any person in Canada at the present time. I think that possibly my Orange [illegible] of the hon. member for East Grey (Mr [illegible] thought there was being established in the Northwest Territories what the people of Ontario have in their minds to-day that is Roman Catholic church controlled schools, I would oppose it as strenuously as any one I would [illegible] and it for a minute But we have nothing of [illegible]

The Hon. Mr Fielding is no less explicit when he says

What is this law which we are going to [illegible] firm and to continue in the new provinces of Alberta and Saskatchewan ? We are told that this provides for a system of separate schools Well, a system of separate schools may mean one thing in one quarter and another thing in another quarter Whatever may be said as [illegible] spects other countries, or other provinces It would be utterly mistaken to say that we are giving to the Northwest provinces separate schools in that sense of the word I submit to this House that the system of schools which we have to-day in the Northwest Territories is a national school system, and if it has all the elements of a national school system then [illegible] discussion which would justify us in having a quarrel over it What is this system ? The system of schools which prevails to-day in the Northwest Territories exists by virtue of chapters 29, 30 and 31 of the ordinances of the Northwest Territories So far as the principle of [illegible] principle was to be found in the Act of 1875 and the ordinances adapted themselves to it But if you read these three ordinances of the Northwest Territories you wi[illegible] rise from the perusal of them with the conviction that in that country they have a system of national schools which may well challenge the admiration of the people in other portions of this country What then are the essential elements of national schools ? I take it for granted that if you have a school which is established by the public authorities, if the management of the school derives all its authority and privileges from a regulation of the government of the state. If you have a system of schools under which the proper authorities of the state or the province, or territory as the case may be themselves specify the school books, establish the course of study provide for the inspection of the schools and for the distribution of the money If you have all these elements, then, I

say you have a system of state-created, state-managed and state-supported public schools. Every one of these conditions exists to-day in the public school system of the Northwest Territories.

From the hour at which these schools open in the morning up to half past three in the afternoon they are absolutely alike, there is no difference; the teachers have the same duties, the same qualifications, the same examinations, the same course of study, the same books are prescribed by the government, the regulations are made by the government. I repeat that from the hour of opening in the morning up to half-past three in the afternoon there is no shade of difference in all these schools in the North-west Territories.

But why seek elsewhere, either amongst his ministers or amongst his partisans, that which Sir Wilfrid Laurier, himself, explained in such clear terms in the now historic letter which the leader of the government gave to the public and in which he said to one of his friends who had consulted him on the subject :—

The impression prevails that separate schools such as they are intended by the Bill will be ecclesiastical schools. This is quite an error. What you call separate schools in this instance is practically national schools. Here is the law of the Northwest Territories at the present moment. All the teachers have to pass an examination and be certified by the Board of Public Instruction; all the schools have to be examined by inspectors appointed by the Board of Public Instruction; all books in use at the schools have to be approved by the Board of Public Instruction; all secular matters are under the control of the Board of Public Instruction; all tuition has to be given in the English language; at 3.30 children can be given religious instructions according to rules made by the trustees of the schools, but attendance at this is not even compulsory.

Do you find fault with this last clause? Do you not believe that what you call 'separate schools' in this instance is really 'national schools'?

The great objection to separate schools is that it would divide our people, but if the same education is given in what is called 'separate schools' as in all other schools I fail to see what objection there is to such a system.

The Minister of Justice, two months after the creation of the famous Laurier-Sifton amendment, when requested by the House to make known its tenor and define its meaning, gave in writing, on the 15th May last, in an official document which is destined to live, his opinion, as the legal adviser of the Crown, and as such settled the true interpretation of clause 16 as amended. He said :—

The effect of section 16 of the Autonomy Bill would be no greater than the effect of the introduction of section 93 of the British North America Act by section 2 of the Territorial Bill, and clause 16 was only deemed necessary to remove doubt which had been expressed as to the meaning of the words 'province' and [illegible] and [illegible] to the schools, whether public or separate, of the minority, the [illegible] and which in practice they have always received, and which is necessary [illegible] their necessary part in the scheme of national education.'

Section 16, as originally drafted, was intended to confirm the minority in the rights they now enjoy and makes

First. Section 93 of the British North America Act applicable to the new province as if it [illegible] the union at the date of the passing of this [illegible]

Second. Re-enacts section 11 of the Northwest Territories Act of 1875.

Third. Makes provision for the continuation of the schools of the minority of the grant now made [illegible] by or through the [illegible]

The effect of the section which it is pro[illegible] the original section [illegible] in force in the territories with regard to any class of schools.

The differences in the rights and privileges [illegible] chapters 29 and 30, are as follows: [illegible] think fit, and the minority of the ratepayers in any [illegible] portion of the Territories to establish 'Protestant or Roman Catholic separate schools.'

The meaning of this section was expressed in the earlier school ordinances.

Under the present ordinances, chapters 29 and 30, the public schools are the schools of all the ratepayers, so that under the present ordinances only three classes of schools are authorized, viz.:

(a) Public (undenominational) schools.

(b) Protestant separate.

(c) Roman Catholic separate.

And a separate school district can be established only in an existing public school district.

2. Under the ordinances no rights or privileges exist with respect to separate schools as contrasted with public schools, except the initial right of effecting the separation, which right carries with it resulting advantages hereafter set out in detail.

Under the regulations there is one difference only:

'Authorized text-books, standards I—IV, approved, August, 1903: the Dominion (Catholic) Readers, first (part 1, part 2) and second. These are optional for Roman Catholic separate schools.'

The rights and privileges which result from the right of effecting the separation, and which the proposed substituted clause 16 preserves to the minority, whether Protestant or Roman Catholic, in a public school district, appear to be these :—

(1) Right of separation—by the ordinance—common to Protestants and Roman Catholics alike.

(2) Half-hour religious instruction by or

thereon—to Protestants and Roman Catholics alike common to public and separate schools.

(3) First and second Catholic readers—by regulation.

(4) Right to elect trustees, who choose the teacher—by ordinance, common to all schools.

The testimony given by all the ministers whose opinions I have just cited, the explanations furnished by the Minister of Justice, after his careful study of the question, are confirmed, beyond all possible dispute, by the decisive avowal of the premier himself, who, on the 8th June last, admitted that his legislation, that which is now before us, sacrifices the rights of the minority.

Here is this most important admission:

Now, we are asked, what is the difference between clause 16, No. 1, and clause 16, No. 2? The difference is simply this, that in clause 16 No. 1, the law of 1875 was enacted giving to the minority—I suppose the Roman Catholic minority—the control over secular education as well as the control over religious education whereas the new clause brings into force the existing law of the territories, the ordinance of 1901, by which the state has absolute control over the secular part of education and the people have control simply of the religious part of education from half-past three in the afternoon. This is the absolute difference which exists between the old clause and the new clause. I have for my part agreed to the new clause 16 and in so doing I know that I have restricted my fellow-religionists in regard to some of the rights which they think they have at this moment. I shall explain in due time why I agreed to do so.

This strange declaration of the Prime Minister, this painful admission that he had to knowingly sacrifice a part of the rights of his co-religionists, naturally provoked a lively discussion and set forth the desire to know why it was he consented to thus coldly immolate, with such premeditation, those sacred rights which his position of Prime Minister, which his title of Catholic and French Canadian, made it his imperative duty to defend.

The reply was discouraging.

He gave it during that same sitting of the 8th June last. He repeated it a few days later, on the 28th of the same month.

On the 8th June, he said:

The position of the government is this: that the minority claim that under the Act of 1875 they had the right to select their own textbooks. They claim also, as the correspondence of record will show, that they have a right to separate school boards. They have that or they have not, and in order to make it absolutely sure, we have abandoned that clause and taken the other.

That is to say, in order to dispel all doubt, the Prime Minister declares by enactment that the claims of the minority are henceforth things of the past.

It is clear, but singularly cruel!

Instead of leaving to the judicial authorities the duty of interpreting the law, the Prime Minister, playing the part of an autocrat, decrees that to make things clear, the federal law must be set aside and be replaced by the ordinances of 1901, which make hash of the rights of his fellow-countrymen.

In fact it was the Prime Minister who used the following language:—

We should not legislate here in order to convey to men the impression that they are given bread when they are given a stone. If the minority for the last fourteen years have thought that they had been deprived of their right, but in order to have peace and harmony they abandoned that right and agreed to live under a system which has given satisfaction to everybody, it is, I think, a good reason why we should have no equivocation about it, why we should know where we are, and legislate accordingly.

Again, it was the Prime Minister, who, on the 28th June last gave by way of explanation of his back down, the following reasons which it is my duty to bring to your notice and that of the entire country:

Hon. Mr. KERR (Toronto): I rise to a point of order. I think it is a well settled rule that no allusion can be made to the debates in the other House, and I am surprised to hear my hon. friend, who is such a stickler for the rules, reading page after page from the Commons 'Hansard.' Mr. Bourinot says:

It is a part of an unwritten law of parliament that no allusion should be made in one House to the debates of the other chamber, a rule always enforced by the Speaker with the utmost strictness.

It seems to me the hon. gentleman is not in order. If no allusion can be made to the discussion in 'Hansard,' then the hon. gentleman cannot read these extracts.

Hon. Mr. LANDRY: The hon. gentleman took his objection too late. I have finished with the quotations.

Mr. SPEAKER—I would not be ready to give a decision at the present moment, because another part of the paragraph states that it is perfectly regular to refer to the printed records of the other chamber. It would seem to me that this means the

record and not the debate, but for the information of the House, I will look up the question. The hon gentleman says he has finished with the extract and it will not be necessary for me to render a decision just now.

Hon Mr. LANDRY—I have just one or two quotations to add and I suppose the hon. gentleman would allow me to read them, as they will not be long. My hon. friend Sir Wilfrid Laurier said on the 28th June last.

My hon friend (Mr R L Borden) a moment ago put to me one or two questions to which he wanted an immediate reply. I said at that moment I did not choose to reply. I am sure my hon. friend and the House generally will agree that when a question is put to an hon member it is for him to select the manner in which he will answer

Mr R L BORDEN. Hear, hear

Sir WILFRID LAURIER I thought the moment was not convenient for me to give an answer because I could not give such an answer as my hon. friend wanted to have, simply yes or no The question was asked Why do you not apply the provisions of section 93 at once without anything more?

Mr R. L BORDEN If you intend to adhere exactly to the constitution

Sir WILFRID LAURIER Very well, if you intend to adhere exactly to the constitution I said we wanted to adhere exactly to the constitution, and the reason why I did not think it would be advisable at this moment to apply section 93, without any qualification, simply to vote for the amendment of my hon. friend which he has just put in the hands of the chairman, and which is as follows

'The provisions of section 93 of the British North America Act, 1867, shall apply to the said provinces in so far as the same are applicable under the terms thereof'

Was, Sir, because that is absolutely meaningless because you do not mean anything, that there is nothing certain as to what is really the law under such circumstances You do not know what kind of school system you would have in the Territories if you were to apply that I call the attention of my hon friend and the House to this fact that the law of 1875 put in certain prescriptions which were binding on the legislative powers. These prescriptions were that the minority or the majority in any school district would have the power to establish such a school system as they thought fit. Now, Sir, let me call the attention of the House to this that no less an authority than Sir John Thompson gave his opinion and put it on record that one part of the law passed by the Northwest Territories, the part regarding the organization of school districts, was ultra vires and had no existence in law Let me again quote Sir John Thompson

'The ordinance respecting schools does not contain the provisions that the statute requires it to contain, but merely contains the provision that the minority may establish a separate school in an organized public school district, thus placing the minority at the mercy of the majority, and only giving the minority the right to establish a separate school, if the majority think proper to organize a public school. It is necessary to point out that the provisions of the Northwest Territories Act, before cited, cannot be abridged by the ordinance and must be considered as still in force, notwithstanding the restrictive terms of the ordinance In so far as it is attempted by the ordinance to declare the meaning of the Northwest Territories Act, the ordinance fails of that purpose, and is objectionable, as being an interpretation by an inferior legislative body of the Acts of its superior.

'The undersigned only refrains from recommending the disallowance of this ordinance, in consequence of its being merely a re-enactment of an earlier ordinance, which disallowance would not affect and which was allowed to go into operation, probably because attention was not called to this provision The undersigned has the honour to recommend that the ordinance bringing these revised ordinances into effect, be allowed to go into operation.'

Here you have the opinion of Sir John Thompson that a part of the law which was passed in 1888 with regard to the organization of school districts and which is still the law in force in the Territories was unconstitutional, was ultra vires, was null He did not recommend the disallowance of it, and it was not disallowed; but it was null at that time, it remains null to this day Therefore what would be the law to-day? If you say that section 93 of the British North America Act should apply, to what would it apply? To the law as it was in the Act of 1875? This is a serious question and it is a question we ought to settle. We do not want it left unsettled to be a bone of contention, with all that that implies. My hon friend's amendment would settle nothing at all, but would simply throw a bone of contention into these new provinces My hon friend says, let the British North America Act apply whatever it may be When he is asked what that Act means, he says that it is for the courts to determine Is that satisfactory? Is that the manner in which we should legislate? Is that the way to build up this country? Sir, it is not the way. The only way is to find what the law is at the present time, and then apply it

Mr R L BORDEN May I ask my hon. friend what tribunal will determine what his amendment means?

Sir WILFRID LAURIER The courts must of course determine what our legislation means but as was said by the hon Minister of Justice, we want to do all we can to prevent litigation, not do all we can to facilitate litigation

Just previous to this declaration of the Prime Minister, his Minister of Justice had made one of his own and a most important one indeed.

Here it stands:

Mr. FITZPATRICK Mr. McCarthy and George Brown both contended that as a result of the passing of this legislation by this parliament, that is to say of the Act of 1875, with respect to schools, if that legislation was allowed to continue in force until the present moment had arrived, that is until the time came to give provincial autonomy, the result would be that we would be obliged to continue on that system that would create rights and privileges which might have to be accepted.

That was the opinion of Brown and McCarthy and of a greater lawyer than either, Sir John Thompson.

Mr. HAGGART. Is it your opinion?

Mr. FITZPATRICK. It is my opinion.

The conclusion arrived at by the Prime Minister consecrates the monstrous doctrine that to frustrate the hopes of our co-religionists of the Northwest and to raise against their legitimate aspirations the insurmountable barrier of a legislation without appeal, it becomes necessary to manipulate the British North America Act by introducing therein new clauses and special provisions that bring within the constitutional domain ordinances that were not constitutional and which close for a persecuted minority all access to the courts of the country.

Was there ever anything heard of more discouraging, more cynically unjust?

The Prime Minister with his minister of Justice admits that a part of the ordinances of 1901 is unconstitutional, ultra vires, and null.

He equally admits that the law of 1875 is still in force.

And in the fear that the automatic application of the British North America Act might give our co-religionists the schools assumed to them by the legislation of 1875, he so amends the British North America Act as to ignore completely both the law of the land and the rights of the minority, and substitutes for that law of 1875 the robber ordinances of 1901.

All this, he says—he has the sad courage to say so—to prevent all possible revendication on the part of the cheated minority.

Catholics and Frenchmen of the Northwest, you pay dearly for the honour of having a French-Canadian Premier. You pay dearly to furnish Sir Wilfrid Laurier with the simple pretext of keeping out of his cabinet that minister of ill-repute who cannot even return thereto, although his leader has ostensibly given way to Mr. Sifton on all points and that he has thus facilitated his return to the crib.

A majority of the House of Commons can cloak with his vote this scandalous immolation of the rights of a weak and abandoned minority, abandoned on all sides, and by those who have the holy mission of defending it against the encroachments of every error, and by those whose political positions oblige them to fight in front ranks; but when history will be written, it will denounce in bitter terms those guilty compromisers, those criminal deserters, that disastrous non-intervention which consecrated the robbery of most sacred rights and the violation of a sworn faith, to whatever party they may belong, and whatever social rank they may hold, they who shall have perpetrated or allowed to be perpetrated the iniquity will carry, in the eyes of their fellow-countrymen and before the entire country, the responsibility of a course that nothing can justify.

To us, hon gentlemen, belong another mission and other duties.

Guardians of the constitution, protectors of the minority and of their most sacred rights, our mission is to respect the constitution and to protect the rights of the minority. In this House where the claims of political parties have no place, whence the cares of office are entirely banished, but where sentiments of impartial justice should hold sway, as well as respect for obligations and for good faith, faithful to the noble traditions that are the ornaments of this assembly, let us silence the discordant cries of the different races and creeds heard in the more noisy arena of active politics, and if this Bill is read for a second time and committed to a committee of the whole, let us calmly correct, as is our duty, the imperfections of the enactment now submitted to us, and let it come forth from our hands purified and improved to become a law of justice and peace restoring, giving to the Catholic or Protestant minority the fullness of its rights and to the country as a whole that peace and tranquility so necessary to its progress and future greatness.